



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/690,680	10/22/2003	Aaron Seung-Joon Rhee	DOW-31780	6141

29423 7590 07/19/2006

WHYTE HIRSCHBOECK DUDEK S.C.
555 EAST WELLS STREET
SUITE 1900
MILWAUKEE, WI 53202

EXAMINER

DANIELS, MATTHEW J

ART UNIT PAPER NUMBER

1732

DATE MAILED: 07/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/690,680

Applicant(s)

RHEE ET AL.

Examiner

Matthew J. Daniels

Art Unit

1732

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 May 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11 April 2006 and 10 May 2006 have been entered.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claims 1 and 4-7** are rejected under 35 U.S.C. 102(b) as being anticipated by Matteodo (USPN 5132344). **As to Claim 1**, intended use language is only given patentable consideration to the extent that it affects the claimed method. Matteodo teaches film blowing (5:26) a composition containing a first linear low density polyethylene resin (2:63-64) and 100 ppm by weight of zinc oxide particles having a mean particle size of 0.05 microns (3:33 and 2:35-36). Also note that Matteodo teaches a range of 100 to 2000 ppm, but a more preferred range of less than 1500 ppm, and further a single example at 500 ppm (8:20-27), which anticipates the

Art Unit: 1732

claimed range. **As to Claim 4**, this aspect would have been inherent in the claimed method because Matteodo teaches the same particle, particle size, and weight percent in the same material. **As to Claim 5**, intended use language is only given patentable consideration to the extent that it affects the claimed method. Matteodo teaches mixing a linear low density polyethylene resin with 100 ppm (2:35-36) of zinc oxide having a particle size of 0.05 microns (3:33), and forming the mixture into a film (5:27), which would have inherently had stretch wrap film properties. **As to Claim 6**, mixing was conducted while molten in Matteodo's method (6:24-29). **As to Claim 7**, blow molding is a blown film process (5:27).

Claims 2 and 3 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Matteodo (USPN 5132344). Matteodo teaches the subject matter of Claim 1 above under 35 USC 102(b). **As to Claims 2 and 3**, Matteodo teaches a preferred range of 100 ppm (2:35-36) to 1500 ppm (3:53). The Examiner has reconsidered his position with regard to this claim. The Examiner maintains his position that these claims are anticipated by Matteodo's teaching of 100 ppm. However, in the event that it is ultimately found that insufficient specificity exists in the reference to Matteodo to anticipate the claimed range, it is also the Examiner's position that Matteodo's teaching of the endpoint of the range at 100 ppm is sufficient to render the claimed limitations prima facie obvious.

3. The rejection of Claim 8 over Matteodo set forth previously is withdrawn in favor of a rejection over Matteodo in view of Ealer under 35 USC 103(a).

Art Unit: 1732

4. **Claims 1, 4-7** are rejected under 35 U.S.C. 102(b) as being anticipated by McKinney (USPN 4430289). **As to Claim 1**, McKinney teaches film blowing (Abstract, line 3) a composition containing a first linear low density polyethylene resin (4:25) and 500 ppm by weight of zinc oxide particles having a mean particle size of less than 0.05 microns (3:35-40 and 4:20-21), which would inherently have improved the cling force of a stretch wrap film. **As to Claim 4**, this aspect would have been inherent in the claimed method because McKinney teaches the same particle, particle size, and weight percent in the same material. **As to Claim 5**, intended use language is only given patentable consideration to the extent that it affects the claimed method. McKinney teaches mixing a linear low density polyethylene resin with 100 to 500 ppm (3:35-40) of zinc oxide having a particle size of less than 0.05 microns (4:20-21), and forming the mixture into a film (4:36), which would have inherently had stretch wrap film properties. **As to Claim 6**, mixing was conducted while molten in McKinney's method (5:14-37). **As to Claim 7**, blow molding is a blown film process (4:37 and 5:1-13).

Claims 2 and 3 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over McKinney (USPN 4430289). McKinney teaches the subject matter of Claim 1 above under 35 USC 102(b). **As to Claims 2 and 3**, McKinney teaches a preferred range of 100 ppm to 20000 ppm zinc oxide (3:35-40). The Examiner has reconsidered his position with regard to this claim. The Examiner maintains his position that these claims are anticipated by McKinney's teaching of 100 ppm. However, in the event that it is ultimately found that insufficient specificity exists in the reference to McKinney to anticipate the claimed range, it is also the Examiner's position that McKinney's teaching of

Art Unit: 1732

the endpoint of the range at 100 ppm is sufficient to render the claimed limitations prima facie obvious.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claim 8** is rejected under 35 U.S.C. 103(a) as being unpatentable over Matteodo (USPN 5132344) in view of Ealer (USPN 4594213). Claim 5 was rejected over Matteodo under 35 USC 102(b) above. **As to Claim 8**, the rotomolding process of Matteodo casts a film (5:26-27), and thus could be interpreted to be a cast film process. However, in the alternative, Matteodo clearly suggests an extrusion process and that the compositions are especially suitable to the blown bubble process. However, Ealer teaches slot cast extrusion (column 9), which is interpreted to be a cast film process, and also that blow molding and slot cast extrusion can be used interchangeably (Columns 8-9). It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate the method of Ealer into that of Matteodo in order to produce the vastly improved optical properties of cast films over those of blow molded films (Ealer 9:56-60).

6. **Claim 8** is rejected under 35 U.S.C. 103(a) as being unpatentable over McKinney (USPN 4430289) in view of Ealer (USPN 4594213). Claim 5 was rejected over McKinney. See the

Art Unit: 1732

rejection of Claim 5 above under 35 USC 102(b). **As to Claim 8**, McKinney appears to be silent to the cast film process. However, Ealer teaches slot cast extrusion (column 9), which is interpreted to be a cast film process, and also that blow molding and slot cast extrusion can be used interchangeably (Columns 8-9). It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate the method of Ealer into that of McKinney in order to produce the vastly improved optical properties of cast films over those of blow molded films (Ealer 9:56-60).

Response to Arguments

7. Applicant's arguments filed 10 May 2006 have been fully considered but they are not persuasive. The arguments appear to be on the following grounds:

- a) "the Examiner's apparent unfamiliarity with film technology is not a suitable basis for rejecting claims that use standard terms and are enabled as necessary for one who already knows how to make films." (bridges pages 2 and 3). "the Examiner fails to appreciate the skill and expertise of those who practice in this art." (page 2) "One skilled in the field covered by the current invention is going to have at least a college degree, and, probably will have an advanced degree and/or years of experience." (page 2)
- b) The Applicant's arguments appear to assert that the films of McKinney and Matteodo are not stretch wrap films.

8. These arguments are not persuasive for the following reasons:

Art Unit: 1732

a and b) The Examiner asserts and maintains that by meeting all of the claimed method limitations, the articles resulting from the methods of Matteodo and McKinney would inherently meet the intended use limitations. The Applicant's specification does not appear to clarify what a "stretch wrap" film is, or should be interpreted to be. Thus, without such information, the Examiner is reduced to discerning the definition of the phrase by its plain meaning. Are the polymeric films of Matteodo and McKinney not capable of both stretching and wrapping?

The Applicant's arguments appear to address the level of familiarity of one of ordinary skill in the art and the Examiner's level of familiarity, but these arguments do not address the Examiner's position of inherency of Matteodo's and McKinney's films being both capable of stretching and wrapping, thus fulfilling the limitation drawn to the intended use. It should be noted that Applicant does not argue any aspect of the rejections except for the intended use limitations. Because the same method limitations are provided which result in the claimed improvements, the Examiner asserts that these benefits would also inherently be found in the methods of Matteodo or McKinney.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew J. Daniels whose telephone number is (571) 272-2450. The examiner can normally be reached on Monday - Friday, 8:00 am - 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson can be reached on (571) 272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1732

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MJD 7/11/06

MJD

cf
CHRISTINA JOHNSON
PRIMARY EXAMINER

7/14/06